

## **CITY OF HAYWARD**

### **AGENDA REPORT**

AGENDA DATE 12/7/04  
AGENDA ITEM 5  
WORK SESSION ITEM \_\_\_\_\_

**TO:** Mayor and City Council  
**FROM:** City Attorney  
**SUBJECT:** Mobilehome Park Conversion Ordinance

#### **RECOMMENDATION:**

It is recommended that the City Council adopt the attached resolution finding the project categorically exempt from CEQA and the ordinance establishing a procedure for approving the change in use of a mobilehome park.

#### **BACKGROUND:**

On October 19, 2004, Council adopted a forty-five day moratorium on the change in use of a mobilehome park in order to provide sufficient time for staff to draft a complete change in use ordinance, which would provide for relocation assistance to displaced mobilehome residents.

Presently, the City has no ordinance regulating the change in use of a mobilehome park. State law governs the conversion process. Government Code Section 65863.7 requires an Applicant (hereafter Applicant) proposing a change in use of a mobilehome park to file a report on the impact of the conversion, closure, or cessation of use on the displaced residents of the mobilehome park, which addresses the availability of adequate replacement housing in mobilehome parks and identifies relocation costs. The report must be provided to each affected mobilehome resident at least 15 days prior to a hearing before an advisory agency or legislative body if a hearing is required. A park resident may request a hearing before an agency or legislative body to question the sufficiency of the report.

The City Council or the Council's designee is required to review the report and may require the Applicant, as a condition of the conversion, to take steps to mitigate any adverse impact of the conversion, closure, or cessation of use on the ability of displaced residents to find adequate housing in a mobilehome park. The mitigation steps may not exceed the reasonable costs of relocation. The Council may also establish reasonable fees to cover the costs of implementing these provisions and such fees may be charged to the Applicant. State law requires the park owner to give mobilehome residents affected by a change in use 6 months or 12 months notice depending on whether the change in use requires local government permits.

State law allows municipalities to develop hearing procedures to evaluate the impact report and determine the reasonable relocation costs an Applicant would be required to pay to each displaced mobilehome resident. A number of cities have passed mobilehome park closure ordinances to regulate the change in use process and provide for reasonable relocation costs to mobilehome residents faced with relocation, including establishing relocation assistance programs. Staff has reviewed closure ordinances from Fremont, Sunnyvale, American Canyon, Windsor, Anaheim, San Leandro, San Juan Capistrano, Los Gatos, Westminster, and Mountain View. The common elements contained in these ordinances are the content of the impact report, a hearing to determine the accuracy of the impact report, and a determination of the reasonable relocation costs each full time resident should receive.

The proposed ordinance addresses the adequacy of replacement housing by requiring an Applicant to provide a complete description of the mobilehomes presently located in the mobilehome park, on site amenities, available neighborhood services and shopping facilities, a list of all available relocation mobilehome spaces within the City, and within thirty miles of the mobilehome park. This section also requires the Applicant to include a list of non-mobilehome affordable housing alternatives located within the City.

Additionally, the Applicant is required to provide cost estimates for moving various types and sizes of mobilehomes different distances. This provision will provide mobilehome residents with estimated costs to move mobilehomes and provide the Council with general costs associated with moving mobilehomes. It requires an Applicant to identify all other economic impacts a mobilehome resident might experience as a result of the change in use. Additionally, the section requires the Applicant to identify special needs mobilehome residents and detail the additional costs these residents would incur, because the resident has school aged children, is over 62 years of age, or permanently disabled.

The ordinance establishes a hearing to review the impact report and allows mobilehome residents the opportunity to question and supplement the impact report in order to establish accurate reasonable relocation costs. Staff has not included any specific formula for determining the reasonable cost of relocation, because mobilehome residents will be faced with different costs based on decisions each mobilehome resident makes regarding relocation. This provides the Council with the most flexibility in determining the reasonable relocation costs for individual mobilehome residents based on the unique situations of each case. It also allows the Council to balance the competing interests of providing reasonable costs of relocation to the mobilehome resident and the right of the Applicant to change the use of the mobilehome park and pay the reasonable costs of relocation without experiencing a severe economic hardship.

The application of a rigidly defined formula for determining the reasonable cost of relocation could result in a court concluding that there was a deprivation of the mobilehome park owner's right to compensation. Thus, the court's ruling could find that the Council's decision resulted in a taking. In determining the reasonable cost of relocation, the Council would be guided by the information contained in the impact report, evidence presented at the hearing, any state or federal guidelines providing for relocation assistance, and limited by state and federal constitutional guarantees.

### Committee's Position

The Amendments Committee of the Hayward Mobilehome Owners Association met with staff and discussed their desire to have a change in use ordinance, which is similar to the City of San Leandro Mobile Home Park Conversion Ordinance. Specifically, the Committee wanted the City of Hayward's ordinance to contain the additional provisions:

1. The reasonable cost of relocation shall include the cost of purchasing replacement mobile homes for those residents owning mobile homes that are not acceptable in other mobile home parks as a result of its size, age or style, or establishing a new mobilehome park for the relocation of displaced mobile homes.

2. The applicant shall reimburse the relocated mobilehome resident for any additional increase in space rent at the relocation mobilehome park as a result of the relocation for a period of two years.

3. If the change in use of the mobilehome park is to dwelling units, the displaced residents have the first right of refusal to purchase, lease, rent, or otherwise obtain residency in the dwelling units and that the replacement dwelling units will be made available at affordable prices.

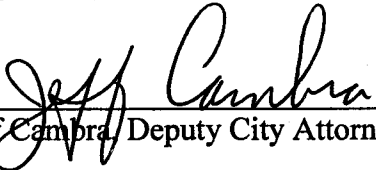
4. There shall be no space rent increases for a two month period prior to and twenty four months after the date of filing a notice of change in use.

5. The available replacement mobilehome spaces must be located in the City or general vicinity.


Staff believes that more study and evaluation is necessary to determine the impact of these provisions. After such review, Staff will bring revisions back to the Council for full consideration in the near future.

Staff recommends adoption of the attached ordinance as emergency legislation. The law provides that such an urgency measure requires a four-fifths vote of the Council. The adoption of this ordinance is categorically exempt under CEQA Regulation 15305, minor alteration to land use limitation.

Prepared by:

  
Jeff Cambra, Deputy City Attorney

Recommended by:

  
Michael O'Toole, City Attorney

Approved by:

  
Jesús Armas, City Manager

Attachments: Draft Ordinance and Resolution

# DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

*me*  
*12/8/04*

**RESOLUTION FINDING ADOPTION OF THE  
MOBILEHOME PARKS CONVERSION ORDINANCE  
CATEGORICALLY EXEMPT FROM CEQA REVIEW**

WHEREAS, staff has recommended approval of an ordinance implementing a procedure for the conversion of mobilehome parks;

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby finds that the adoption of the proposed ordinance is Categorically Exempt from the California Environmental Quality Act (CEQA) Guidelines, pursuant to Section 15305 (a) Minor Alterations in Land Use Limitations.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2004

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward

# DRAFT

ORDINANCE NO. \_\_\_\_\_

*me*  
*12/2/04*

## ORDINANCE AMENDING ARTICLE 3 OF CHAPTER 10 RELATING TO CONVERSIONS OF MOBILEHOME PARKS

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES HEREBY ORDAIN AS  
FOLLOWS:

Section 1. Article 3 of Chapter 10 is hereby amended to add the following:

### **"SECTION 10-3.1000. SPECIFIC PURPOSE.**

The purpose of the Mobilehome Park Change in Use procedure is to ensure that the change in use or the cessation of use of a mobilehome park is preceded by adequate notice to residents of the mobilehome park as proscribed by California Civil Code, Section 798.56; an impact report detailing the relocation costs is provided to the mobilehome residents and filed with the City of Hayward pursuant to California Government Code, Section 65863.7; an impact report hearing before the Council is conducted to determine the accuracy of the report; and a decision reached that the impact report is consistent with the requirements and limitations set forth in California Government Code, Section 65863.7.

### **SECTION 10-3.1005. DEFINITIONS**

- (a) "Applicant." The person, partnership, corporation, municipality, or other entity proposing a change in use of a mobilehome park.
- (b) "Change in use." A use of a mobilehome park or any portion thereof for a purpose other than the rental or the holding out for rent of two or more mobilehome sites to accommodate mobilehomes used for human habitation or the termination in use of a mobilehome park or any portion thereof for the rental or the holding out for rent of a mobilehome space or spaces without any declared change of use. The term "change in use" does not apply to the conversion of a mobilehome park from private ownership to a mobilehome real estate development or mobilehome stock cooperative as provided for under Section 10-3.850 of the Hayward Municipal Code.
- (c) "Council." For the purposes of this division, the term Council shall mean the City Council or a Council designee.
- (d) "City." City of Hayward.
- (e) "Mobilehome." A structure designed for human habitation as defined in Health and Safety Code Section 18008 and for being moved on a street or highway under permit pursuant to Cal. Vehicle Code Section 35790. Mobilehome does not include a recreational vehicle, as defined in Cal. Civil Code Section 799.24, a commercial coach, as defined in Cal. Health and Safety Code Section 18218, or a trailer coach as defined in Health

and Safety Code Section 18001.8.

(f) "Mobilehome park." An area of land where two (2) or more mobilehome sites are rented or held out for rent to accommodate mobilehomes used for human habitation.

#### **SECTION 10-3.1010. NOTICE OF CHANGE IN USE TO CITY**

(a) An applicant proposing a change in the use of a mobilehome park shall file a notice with the City. The notice of change in use must be filed with the City's Rent Review Office indicating the proposed change in use and the proposed date the applicant desires to commence the change in use fifteen days (15) prior to submitting an Application for Reclassification.

(b) If an applicant proposes to cease renting, holding out for rent spaces in a mobilehome park, or terminating tenancies with the intent of not re-renting, a notice of closure must be filed with the Rent Review Office one year prior to the closure of the mobilehome park.

(c) This notice requirement is separate and distinct from the requirement of filing an impact report as provided for under Section 10-3.1025.

#### **SECTION 10-3.1015. INITIAL NOTICE TO RESIDENTS**

An applicant proposing a change in use or closure of a mobilehome park shall mail a notice of change in use or closure by first class mail to a resident of each mobilehome in the mobilehome park as provided below.

(a) If an applicant proposes a change in use of a mobilehome park to another use, a notice of change in use must be mailed to a resident of each mobilehome in the mobilehome park fifteen days prior to applying for Application for Reclassification as provided for under Cal. Civil Code Section 798.56(g)(1). The notice shall contain a brief statement describing the proposed change in use, informing the resident of the right to a hearing, and that the resident will be notified of the hearing date and receive a copy of an impact report which complies with the information required by Cal. Government Code Section 65863.7(a) and other sections of this ordinance thirty (30) days prior to the hearing.

(b) The mobilehome park owner shall provide a copy of the notice of change in use or closure to all persons who contact mobilehome management regarding the leasing of a mobilehome space once the initial notice of change in use or closure has been mailed to each mobilehome in the mobilehome park as provided for under Cal. Civil Code Section 798.56(g)(3).

(c) If the mobilehome park owner enters into a space lease agreement after the notice of change in use or closure is mailed to existing mobilehome residents, the notice of change in use or closure shall be incorporated into the space rent agreement and separately acknowledged with the new resident's signature.

#### **SECTION 10-3.1020. APPROVAL REQUIRED**

(a) An applicant proposing a change in the use of a mobilehome park must complete and submit an Application for Reclassification with the Planning Director. An application for Reclassification will not be approved until the applicant submits and obtains an approval of the impact report as described under section 10-3.1035 from the Council.

(b) An applicant proposing the closure of a mobilehome park is not required to obtain a reclassification approval from the City in order to close the mobilehome park. An applicant proposing to close a park must comply with all provisions of Cal. Government Code Section 65863.7, Cal. Civil Code Section 798.56, and obtain approval by the Council of an impact report before the applicant may close the mobilehome park.

(c) Pursuant to Cal. Government Code, Section 65863.8, the Planning Director shall notify the applicant in writing of the notification requirements provided for in Cal. Civil Code, Section 798.56 (g). The notice shall provide information detailing the type of information required and the method the applicant shall use in order to verify that a resident of each mobilehome in the mobilehome park and mobilehome park owner has received a copy of the impact and proper notice of the hearing to approve the impact report.

(d) The notice shall require the applicant to obtain the signature of at least one mobilehome resident from each mobilehome in the mobilehome park and the park owner acknowledging receipt of the impact report and notice of the hearing. The notice shall require the applicant to submit a verification report listing each mobilehome address and showing the printed name and signature of a resident of the mobilehome to the Planning Director at least thirty days prior to the scheduled hearing date.

#### **SECTION 10-3.1025. IMPACT REPORT**

(a) An applicant proposing a change in the use of a mobilehome park shall prepare and file an impact report with the City's Planning Director as required by Government Code Section 65863.7 (a). The report shall address the availability of adequate replacement housing in a mobilehome park within thirty miles of the mobilehome park and other housing options and an estimate of the relocation costs for each mobilehome and its resident(s).

(b) In addressing the adequacy of replacement housing in a mobilehome park, the impact report shall include:



- (1) The number of mobilehome spaces in the mobilehome park and the number of occupied spaces at the time of the initial application.
- (2) The name, mailing address, and space number of the resident(s) of each mobilehome in the mobilehome park.
- (3) The length of time each space has been occupied by the current resident(s).
- (4) The age, size, and type of mobilehome occupying each space.
- (5) A brief statement describing any resident improvements contained on the space such as decking, porches, storage facilities, etc.
- (6) A brief statement addressing the condition of the mobilehome and if it could be moved to another location without significant damage to the mobilehome.
- (7) The total monthly space rent currently charged for each space with detail showing the space rent, utility charges, and any other costs paid by the resident.
- (8) A brief statement describing the type and location of medical services, dental services, grocery stores, public transportation, and religious, social, and recreation facilities surrounding the mobilehome park.
- (9) The availability of mobilehome spaces within the City limits including the current space rent charged for the space, amenities offered, and any restrictions on the type or age of the mobilehome that may occupy the space.
- (10) A brief statement describing the type and location of medical services, dental services, grocery stores, public transportation, and religious, social, and recreation facilities surrounding the relocation mobilehome park if the mobilehome park is located within the City of Hayward.
- (11) In the event the number of available mobilehome spaces within the City is insufficient to accommodate all the residents of the mobilehome park, the impact report shall include a brief statement of the availability and cost of any non-mobilehome affordable housing alternatives located within the City.

(12) In the event the number of available mobilehome spaces within the City is insufficient to accommodate all the residents of the mobilehome park, the impact report shall list all available mobilehome spaces within thirty miles of the mobilehome park. This section of the impact report shall include a brief description of the relocation mobilehome park, list the current space rents charged, state whether the available spaces are subject to any rent stabilization ordinance, amenities offered, and any restrictions on the type or age of the mobilehome that may occupy the space.

(c) The impact report shall include detailed information on the relocation cost and economic impact on the resident(s) of each individual mobilehome located in the mobilehome park. For the sole purpose of preparing the impact report, the cost to move a certain type of mobilehome (single, double, triple wide) a given distance (10, 50, 100 miles) may be estimated. However, in determining the actual reasonable cost of relocation to move any particular mobilehome for the purpose of compensating the mobilehome owner, the Council shall use the exact cost of moving the individual mobilehome.

(d) For the mobilehomes identified in Section 10-3.1025,(b)(6) as mobilehomes that could not be moved without incurring significant damage, the impact report shall include an estimate of the in place fair market value of the mobilehome in its current location and assuming the continuation of the mobilehome park in its present condition. If a dispute arises as to the in place fair market value of the mobilehome, the applicant and the mobilehome owner shall each submit appraisals prepared by separate qualified MAI appraisers with experience in appraising mobilehomes.

(e) In determining the economic impact on the residents of a mobilehome park, the impact report shall provide cost estimates for typical moving expenses other than the cost to move the mobilehome itself including, but not limited to, the average cost to move the mobilehome resident's personal property, any estimated rent increase a resident may experience by moving to another park or other housing option, and any other increased cost that may have a long term economic impact on the mobilehome resident. The impact report should address any special economic impacts experienced by residents with children, who are sixty two years of age or older, or who are medically proven to be permanently disabled.

(f) The Planning Director shall review the impact report for substantial compliance before the applicant may send a copy of the report to the residents of the mobilehome park and prior to scheduling the hearing to review and approve the impact report. The Council or Planning Director may require additional information be included in the impact report.

### **SECTION 10-3.1030. NOTICE OF HEARING**

The applicant shall notify a resident of each mobilehome in the mobilehome park and the mobilehome park owner of the date of the hearing to approve the impact report at least thirty (30) days prior to the hearing as required by Government Code Section 65863.8. The applicant shall obtain the signature of at least one mobilehome resident from each mobilehome in the mobilehome park and the park owner acknowledging receipt of the impact report and notice of the hearing. The applicant shall submit a verification report listing each mobilehome address and showing the printed name and signature of a resident of the mobilehome to the Planning Director at least thirty days prior to the scheduled hearing date.

### **SECTION 10-3.1035. FINDINGS FOR APPROVAL OF IMPACT REPORT**

The Council shall conduct a hearing to review and approve the impact report for a change in use prior to any change in use or closure. The Council may consider all relevant evidence presented at the hearing and shall approve the impact report if it finds that the impact report satisfactorily addresses the following:

- (a) If the impact report is prepared for a change in use of a mobilehome park, the proposed change in use is consistent with the General Plan, any applicable Specific Plan, or any similar State law or City ordinance.
- (b) The applicant has complied with all notice requirements as provided for in Government Code Section 65863.7 (b),(c), and Civil Code Section 798.56, and each mobilehome resident has had adequate notification of the proposed change in use.
- (c) The impact report accurately represents the total costs associated with the relocation of each mobilehome resident.
- (d) Each mobilehome resident will receive the reasonable costs of relocation from the mobilehome park owner pursuant to Government Code section 65863.7(e).

### **SECTION 10-3.1040. NOTICE OF TERMINATION OF TENANCY**

(a) Any applicant who has applied to the City for a change in use of a mobilehome park shall prepare and mail by first class mail a 180-day notice of termination of tenancy to each mobilehome upon receiving approval of a reclassification application and securing the approval of the impact report by the Council.

(b) The applicant who has applied to the City to close a mobilehome park shall prepare and mail by first class mail a 360-day notice of termination of tenancy to each mobilehome upon receiving approval of the impact report by the Council.

### **SECTION 10-3.1045. WAIVER OF CONDITIONS**

(a) The Council may find that there is substantial evidence to support a finding that the imposition of the payment of the reasonable cost of relocation as provided for in Section 10-3.1035 of this division would result in an extreme economic hardship for the applicant. An extreme economic hardship does not exist where the payment of the reasonable cost of relocation would deny the mobilehome park owner the maximum profits that could be realized from the change in use.

(b) An applicant may request a waiver of the payment of a portion of the reasonable cost of relocation by submitting a written request for waiver with the Planning Director. The applicant should include sufficient financial information including, but not limited to, three years of financial statements including profit and loss statements, balance sheets, acquisition cost of the mobilehome park, and an estimate by a certified real estate appraiser of the present value of the mobilehome park. The Planning Director may request additional information if it is determined that the information provided is incomplete or insufficient to evaluate. A hearing before the Council shall be conducted to determine if a waiver should be granted and what reasonable relocation costs should be waived.

(c) If the Council determines that the conditions would result in extreme economic hardship for the mobilehome park owner, the Council may waive or modify any conditions to the extent necessary to alleviate such extreme economic hardship.

### **SECTION 10-3.1050. ADJUDICATION OF BANKRUPTCY**

If the change in use of a mobilehome park results from an adjudication of bankruptcy, the provisions of this division shall not be applicable to an applicant when a court of competent jurisdiction has determined in connection with a proceeding in bankruptcy that the change in use of the mobilehome park is necessary and that such court has taken further action, which would preclude the payment of relocation assistance benefits.

### **SECTION 10-3.1055. ADMINISTRATION FEE**

The Council shall by resolution establish the reasonable fee to cover the cost of administering this ordinance and shall assess such fees to the applicant pursuant to Government Code Section 65863.7(g) and subject to the limitations set forth in Government Code Section 66014(a).

### **SECTION 10-3.1060. CONFORMITY**

Nothing in this ordinance shall be construed to conflict with state law."

**Section 2. Severability.**

This ordinance shall be liberally construed to achieve its purpose and preserve its validity. If any provision or clause of this ordinance or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable and are intended to have independent validity.

**Section 3. Effective Date.**

This ordinance shall become effective immediately upon its adoption.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the 7<sup>th</sup> day of December, 2004, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: \_\_\_\_\_  
Mayor of the City of Hayward

DATE: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward